

INFORMATION SHEET
DETERMINATIONS OF NO JURISDICTION FOR ISOLATED, NON-NAVIGABLE, INTRA-STATE WATERS
RESULTING FROM U.S. SUPREME COURT DECISION IN SOLID WASTE AGENCY OF NORTHERN COOK
COUNTY V. U.S. ARMY CORPS OF ENGINEERS

DISTRICT OFFICE: Omaha District
FILE NUMBER: 200360307

REGULATORY PROJECT MANAGER: Erhardt **Date:** 11/16/04

PROJECT REVIEW/DETERMINATION COMPLETED: In the office Y (Y/N) **Date:** 11/16/04
 At the project site (Y/N) **Date:**

PROJECT LOCATION INFORMATION:
State: North Dakota
County: Griggs
Center coordinates of site by latitude & longitudinal coordinates: Lat 47-26-33 Long 98-08-03
Approximate size of site/property (including uplands & in acres): 240 acres
Name of waterway or watershed: Middle Sheyenne

SITE CONDITIONS:

Type of aquatic resource ¹	0-1 ac	1-3 ac	3-5 ac	5-10 ac	10-25 ac	25-50 ac	> 50 ac	Linear feet	Unknown
Lake									
River									
Stream									
Dry Wash									
Mudflat									
Sandflat									
Wetlands		X		X	X				
Slough									
Prairie pothole									
Wet meadow									
Playa lake									
Vernal pool									
Natural pond									
Other water (identify type)									

¹Check appropriate boxes that best describe type of isolated, non-navigable, intra-state water present and best estimate for size of non-jurisdictional aquatic resource area.

Migratory Bird Rule Factors ¹ :	If Known		If Unknown Use Best Professional Judgment		
	Yes	No	Predicted to Occur	Not Expected to Occur	Not Able To Make Determination
Is or would be used as habitat for birds protected by Migratory Bird Treaties?			X		
Is or would be used as habitat by other migratory birds that cross state lines?			X		
Is or would be used as habitat for endangered species?		X			
Is used to irrigate crops sold in interstate commerce?		X			

¹Check appropriate boxes that best describe potential for applicability of the Migratory Bird Rule to apply to onsite, non-jurisdictional, isolated, non-navigable, intra-state aquatic resource area.

TYPE OF DETERMINATION: Preliminary Or Approved X

ADDITIONAL INFORMATION SUPPORTING NJD (e.g., paragraph 1 – site conditions; paragraphs 2-3 – rationale used to determine NJD, including information reviewed to assess potential navigation or interstate commerce connections; and paragraph 4 – site information on waters of the U.S. occurring onsite): Approximately 240 acres of property is included in this jurisdictional determination. Three isolated wetland basins (6.33 acres, 1.1 acres and 20.07 acres) are located on the west edge of Cooperstown. Griggs County Water Resource District proposes to construct a drain which will move the water to an established drain that runs on the north edge of Cooperstown, then

on the east edge where it joins with a tributary of the Sheyenne River. No fill is proposed. Based on information available, including but not limited to soil surveys and USGS Quad maps and NWI, these isolated basins are intrastate and non-navigable. No tie to interstate commerce can be made other than through migratory birds. The basins are not jurisdictional based on the SWANCC ruling.